

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MONIQUE CLARKE,

Plaintiff,

-against-

**PROPOSED VOIR DIRE**

**10 Civ. 6330 (DAB)**

THE CITY OF NEW YORK, DET. JOSEPH CASTRO,  
Shield No. 3203, Individually and in his Official Capacity,  
and P.O.s "JOHN DOE" #1-10, Individually and in their  
Official Capacities, (the name John Doe being fictitious, as  
the true names are presently unknown),

Defendants.

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Plaintiff Monique Clarke, by her attorneys, Cohen & Fitch LLP, pursuant to Rule 47(a)  
of the Federal Rules of Civil Procedure, submit the following proposed questions for voir dire:

1. Please tell us about your work experience, beginning with who you work for now and what your job is.<sup>1</sup>
2. Where are the other members of your immediate family employed?
3. How many years of formal education do you have?
4. Were you ever in the military?
  - a. What ranks did you hold?
  - b. What duties did you have?
  - c. Were you ever in the military police?
5. Have any of you ever sued as a claimant in any injury case? [If prior experience, details to be probed].

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<sup>1</sup> If at any point the members of the jury feel uncomfortable with answering these questions in open court they are free to explain them at sidebar in private.

6. Have any of you, or a family member, ever been sued by someone for any reason?

7. Have any of you, or a family member, or a friend ever been involved in any type of incident involving the Police? [If so, did any claim arise out of that incident? Did you make a claim? Was a claim made against you? Was it resolved to your satisfaction?]

8. Do you have any opinions concerning the New York City Police Department? What are they?

9. This is a case in which a man has sued a New York City police officer alleging civil rights violations. Would you have any difficulty being completely fair and impartial in such a case? If so, please explain.

10. Have you or any member of your family or a close friend ever been the victim of a crime? What happened? Was anyone arrested/prosecuted? Were you satisfied with the result?

11. Are you or any member of your family or any friends employed by the New York City Police Department?

12. Have you or has any member of your immediate family ever held any job in (a) a law enforcement agency, (b) any government agency, (d) the state or local police, (d) the FBI, (e) any prosecutor's office, (f) probation or parole agency or (g) a private detective or security guard agency?

a. Did they ever talk to you about their job?

13. Have any of your neighbors, friends or relatives ever held a job in (a) a law enforcement agency, (b) any government agency, (d) the state or local police, (d) the FBI, (e) any prosecutor's office, (f) probation or parole agency or (g) a private detective or security guard agency?

a. Did they ever talk to you about their job?

14. Does your job cause you to work with any law enforcement officer or agency?

15. Are you or any member of your family or any friends employed by the City of New York, State of New York, the MTA, or the New York City Transit Authority or other municipal agency?

16. Are you or any member of your family or any friends a police officer, peace officer, corrections officer, or involved in traffic enforcement or any type of job that involves public safety or law enforcement?

17. Have you ever been stopped by a police officer for any reason? If so, describe the circumstances, including what was the nature of the contact or interaction? What was your impression of the police officers following the interaction?

18. Have any of you served as a juror at a trial before? If so, was it a civil or criminal proceeding? Have you ever served as a jury foreperson? Have you ever served as a juror on a grand jury? If so, please state the type of case (civil or criminal, and if criminal, the type of crime charged), whether it was in state or federal court, and if a verdict was reached. (Do not tell us what the verdict was).

19. Have any of you had prior jury service in a civil case? Have any of you had prior jury duty in a negligence or accident case or civil rights case? Have any of you had prior jury duty in a case on which a police officer or a police department was a party? Has that jury service given you any feelings against either a party suing or person defending a lawsuit?

20. Have you ever had to appear in court, or in any legal proceeding, for any reason other than jury duty? If yes, please state when and explain why you appeared in court.

21. Do any of you have any feelings about a person bringing a lawsuit?

22. Do you have any particular views relating to personal injury cases which you feel may make it difficult to be objective in this case?

23. Have you or any one in your family ever worked at a job where you did claims investigation work or evaluated any claims being made, or handled accident reports of any kind?

24. Are you, or is any member of your family or any friend, a lawyer? If so, what type of law is practiced?

25. Have any one of you taken any type of law course?

26. Will you accept the law as given to you by the judge and apply it to evidence, even though you might feel the law should be different?

27. Will the fact that, instead of in-person testimony, deposition or other testimony from witnesses, who have previously testified, may be read to you in this case by the parties affect your ability to be a fair and impartial juror on this case?

28. Has anyone read any articles or literature, or heard any discussions or public speakers, concerning tort reform and the amounts of verdicts in civil cases? If so, have you formed any opinions or ideas with reference to amounts of jury verdicts? Do you have any opinions that, based upon what you may have heard in the media, there should be limit on the amounts a plaintiff should be entitled to recover? Do you understand that a person who claims he is injured has a right to bring a lawsuit and that you will not hold it against him just because he is bringing a lawsuit?

29. In this case, some of the defendants are police officers. Do any of you feel a police officer is more worthy of belief than another member of the public? Do any of you feel that a police officer is somehow more credible than another member of the public?

30. A number of trial witnesses may be either employees of the City of New York or of the New York City Police Department, or be law enforcement officers. Do you feel that, because of any attitudes about or experiences with law enforcement officials, you would be more willing or less willing to believe the testimony of a law enforcement officer, simply because of his or her status as a law enforcement officer?

31. If a civilian and a police officer give conflicting testimony about the same incident, would you be inclined to believe the police officer over the civilian and why?

32. Do you know of any reason whatsoever why you could not sit in this case and render an impartial verdict with full justice to all parties to the litigation?

33. Do you have feelings or believe that lawsuits are not the proper way for someone to seek compensation for an injury they believe was caused by someone else?

34. Does any member of this panel feel there should be a limit on the amount of damages to be awarded plaintiff, irrespective of what injuries were sustained?

35. Do you have any religious or personal beliefs which prevent you from awarding money damages for any reason?

36. This case does not involve a claim for physical injuries, but instead it involves allegations that the plaintiff's constitutional rights were violated – namely the right to be free from being arrested without probable cause. Does anyone believe that a person should not be compensated for a violation of their constitutional rights?

37. Constitutional injuries, such as loss of liberty are what the law refers to as intangible injuries, meaning there will be no accompanying physical injuries. Do you believe that you could not, for whatever reason, place a dollar value on the plaintiff's loss of liberty and the violation of his constitutional rights – namely, the amount of time he wrongfully spent in prison or the amount of time he was being prosecuted for false charges?

38. Would you have any trouble awarding damages not just to compensate a person for injuries, but to punish a police officer who abused his authority?

39. Will you keep an open mind until you have heard all of the evidence and have received the charge as to the law applicable before making any determination concerning this case?

Dated: New York, New York  
December 19, 2011

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By:                     /S                      
JOSHUA FITCH, ESQ.